

Maine Revised Statutes

Title 36: TAXATION

Chapter 358: SERVICE PROVIDER TAX (HEADING: PL 2003, c. 673, Pt. V, §25 (new); §29 (aff))

§2556. SOURCING RULES FOR MOBILE TELECOMMUNICATIONS SERVICES

1. Sourcing rule; identifying place of primary use. Mobile telecommunications services provided to a customer whose place of primary use is located in this State, the charges for which are billed by or for the customer's home service provider, are deemed to be provided at the customer's place of primary use. A home service provider is responsible for obtaining and maintaining a record of a customer's place of primary use. Subject to subsection 2 and if the home service provider's reliance on the information provided by its customer is in good faith, the home service provider:

A. May rely on the applicable residential or business street address supplied by the home service provider's customer; and [2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF).]

B. May not be held liable for any additional taxes under this chapter based on a different determination of the place of primary use. [2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF).]

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

2. Correction of place of primary use; determination by assessor. If the assessor determines that the address used by a home service provider as a customer's place of primary use does not meet the definition provided by section 2551, subsection 8, the assessor shall notify the customer in writing of that determination and provide the customer an opportunity to demonstrate that that address is the customer's place of primary use. If the customer fails to demonstrate to the assessor's satisfaction within 30 days from the time it receives notice from the assessor, or within another time period as the assessor may allow, that the address in question is the customer's place of primary use, the assessor shall provide the home service provider with the proper address to be used as the customer's place of primary use. The home service provider shall begin using the address provided by the assessor as the customer's place of primary use within 30 days from the date it receives notice of the assessor's determination.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

3. Hold harmless provision; use of electronic database or enhanced zip code. A home service provider is entitled to the hold harmless protections provided by the federal Mobile Telecommunications Sourcing Act, Public Law 106-252, Section 1, 114 Stat. 2, (2000).

[2003, c. 2, §115 (COR) .]

4. Bundled services. Notwithstanding any other provision of this chapter, otherwise nontaxable charges that are aggregated with and not separately stated from taxable mobile telecommunications charges are subject to taxation unless the home service provider can, to the satisfaction of the assessor, reasonably identify such charges from books and records kept in the regular course of its business. A customer may not rely upon the nontaxability of bundled services unless the customer's home service provider separately states the otherwise nontaxable services or the home service provider elects, after receiving written notice from

the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business and that reasonably identify the nontaxable charges.

[2007, c. 627, §70 (AMD) .]

5. Certain preexisting contracts. Subject to subsection 2, a home service provider may treat the address used by it for purposes of the tax imposed by this chapter for any customer under a service contract or agreement in effect on July 28, 2002 as that customer's place of primary use for the remaining term of the service contract or agreement, excluding any extension or renewal period.

[2003, c. 673, Pt. V, §25 (NEW); 2003, c. 673, Pt. V, §29 (AFF) .]

SECTION HISTORY

RR 2003, c. 2, §115 (COR). 2003, c. 673, §V25 (NEW). 2003, c. 673, §V29 (AFF). 2007, c. 627, §70 (AMD).

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